

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 117 OF 2005

SHRI GANESH M.DESSAI,QUEPEM GOA. Applicant

Versus

SHRI GOPINATH K.FOTTO Respondent
DESSAI(SIN.DEC.)REP.BY L.RS.

Mrs.A.A. Agni, Advocate for Applicant.

Coram:- P.V. KAKADE, J.

Date:- 16th August, 2006

P.C.:

Heard the Advocate for the applicant. None appears for the respondent though service is complete.

The appeal is already admitted in the year 2005. The First Appellate Court has concluded that the present applicant is not the owner in possession of the suit property and as such the relief of injunction was refused. On this background the applicant has made this application seeking temporary injunction against the respondent from disturbing peaceful possession of the applicant and from cutting any trees, branches, shrubs and from putting up any construction in the suit property and from carrying out any work in the suit property.

It is needless to mention that once the lower appellate Court has come to the conclusion on merits that the applicant is not the owner in possession of the property, the question of granting temporary injunction at this stage without going through the merits does not arise nor it is pressed by the applicant and therefore, relief cannot be granted by way of this application.

However, it is hereby directed that in the interest of justice, the parties are directed to maintain status quo with regard to the suit property and the party in possession shall not make any construction or carry out any new work in the suit premises and shall not cut any trees, branches or shrubs, pending the appeal.

With these directions, the application stands disposed of with no order as to costs.

P.V. KAKADE, J.

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